

Public Access to Records

Objective:	To establish County government policy and procedure that reflects our belief in transparency and ease of public access to government records and to implement compliance with New York State and Federal Freedom of Information Law (FOIL).	Policy/Procedure Number:	01-06
Reference: <i>(All applicable federal, state, and local laws)</i>	Public Officers Law, Article 6, §§84-90; 21 NYCRR Part 1401 (Committee on Open Government); US Department of Justice Public Law 114-185; Regulations for Public Access to Records of Tompkins County	Effective Date:	January 12, 1981
Legislative Policy Statement:	It is the policy of Tompkins County government that the public should generally have free and easy access to County government records except as restricted by Federal or State law or to support individual personal privacy. This policy affirms that basic to our democratic society is the people's right to know (1) the process of government decision-making and (2) the documents and statistics leading to determinations.	Responsible Department:	County Administration
		Modified Date (s):	March 21, 1995; August 6, 2013; July 2019
		Resolution No.:	2019-144
		Next Scheduled Review:	July 2024

General Information:

I. Definitions:

FOIL - The Freedom of Information Law (FOIL) gives the public the right to access, with certain exceptions, documents and information about the functions, procedures, policies, decisions and operations of government department and agencies.

Record - Any information kept, held, filed, produced, or reproduced by, with, or for an official County agency, board, or committee, and/or for the County Legislature, in any physical form whatsoever. Under the law, all records are accessible, except records or portions of records that fall within one of defined categories of deniable records as stated in §87(2) of the Public Officer's Law (also see item B of the Procedure section of this policy). Access refers to existing records, and therefore no record need be created in response to a request.

Records Access Officer - The County designee to receive FOIL requests, determine how to respond, and ensure timely responses.

Appeals Officer – The County designee to receive, determine action, and respond to appeals for denial of access to records.

Subject Matter List - A reasonably detailed, current list, organized by subject matter, of all records in County possession, and whether or not records are available to the public.

II. Policy:

A. The Tompkins County Legislature is responsible for ensuring the County's compliance with the Freedom of Information Law, including appropriate response to public requests for access to records, and designates the following person as Records Access Officer for the County: the Tompkins County Administrator.

B. The Records Access Officer shall not be the Appeals Officer to avoid conflict of interest per 21 NYCRR Part 1401.

- C. The County Administrator or designee shall serve as Records Access Officer.
- D. Tompkins County is to provide the public with access to records in accordance with the Freedom of Information Law (FOIL) and the rules and regulations referenced in this policy.
- E. The County will adopt procedures and regulations describing how to acquire copies of records based in part upon the general regulations issued by the New York State Committee on Open Government. These procedures and regulations shall be posted on the Tompkins County government website.

III. Procedure:

A. Responsibility of the Records Access Officer

1. Ensure the County maintains an annually updated Subject Matter List.

The Subject Matter List must:

- Include a list of all records in the possession of the County
 - State whether or not the records are available for public inspection
 - Indicate the date of the most recent update
 - Be posted on the County website and shall be linked to the website of the Committee on Open Government
2. Ensure requested records are promptly made available or if denied, reasoning of denial provided in writing to the requestor.
 3. Upon request, certify in writing that a record is a true copy.
 4. Upon inability to locate records, certify in writing that after a diligent search the records cannot be located or the County is not the custodian of such requested records.

B. Responsibility of County Departments

Immediately upon receipt of a FOIL request, Departments shall:

1. Provide the appropriate documentation or assistance as requested by the County Administrator to satisfy FOIL requirements.
2. Each department shall maintain a reasonably detailed *Subject Matter List* of all records in the possession of the department as set forth in the Regulations for Public Access to Records of Tompkins County New York (whether or not records are available pursuant to subdivision two of Section 87 of the Public Officers Law).
3. Departments shall forward an updated copy of the department's *Subject Matter List* to the County Administration Department no later than January 31st of each calendar year.

C. Requesting Records Access

1. A request for access to records shall be submitted to the County

Administrator (Records Access Officer) in writing, by e-mail or using the online "[Records Request Form](#)" located on the County website.

County Administrator
Tompkins County Administration
125 E. Court St. 3rd Floor
Ithaca, NY 14850
(607) 274-5551

2. Once a FOIL request is received by County Administration, it will be reviewed by the Records Access Officer granting or denying access in whole or in part.
3. A response to the requestor is required within five (5) business days of receipt of the request by:
 - Granting the request in whole or in part;
 - Denying the request in whole or in part, including the reason for denial;
 - Acknowledging the receipt of the request in writing, including an approximate date of a decision of approval or denial, which shall not be more than twenty (20) days after the acknowledgment. If circumstances are known that prevent the disclosure within the stated time frame, a statement must be provided in writing stating the reason for the inability to grant the request and a certain date must be provided within a reasonable period when the request will be granted.
 - If the County fails to respond to a request within the specified timeframes, the request will be deemed as a denial of access.

D. Approved Access to Records

1. Once a records request is approved, the request will be routed to the appropriate County department for fulfillment.
2. County departments shall make all records available for public inspection and copying during Tompkins County general business hours (8:30a.m.- 4:30p.m.), with the exception of those noted in Public Officers Law, Article 6, Section 87,
3. When the County has the ability to retrieve records maintained in an electronic database and doing so requires less employee time than a manual retrieval of paper records, the County is required to retrieve the records electronically. In such case, the County may charge a fee in accordance with 21 NYCRR Part 1401.8 (Fees).

E. Denial of Access to Records

1. County departments shall make all records available for public inspection and copying except, in accordance with Public Officers Law, Article 6, Section 87, those records or portions thereof that:
 - are specifically exempted from disclosure by state or federal statute;
 - if disclosed would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine of Public Officers Law, Article 6;

- if disclosed would impair present or imminent contract awards or collective bargaining negotiations;
- are trade secrets or are submitted to a department by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise;
- are compiled for law enforcement purposes;
- if disclosed could endanger the life or safety of any person;
- are examination questions or answers which are requested prior to the final administration of such questions; or
- if disclosed, would jeopardize the capacity of a department or an entity that has shared information with a department to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures.

Note: The County has the authority to redact portions of a record prior to the disclosure of the record to the requestor in accordance with Public Officers Law, Article 6, Section 87.

2. Denial of access to records shall be in writing stating the reason for denial and advising the requestor of the right to appeal the denial to the Appeals Officer as set forth in the Regulations for Public Access to Records of Tompkins County New York (Section 7). This statement shall include the name, title, address, and business phone number of the Appeals Officer.
3. The Tompkins County Attorney shall serve as the Appeals Officer to determine appeals regarding denial of access to records under the Freedom of Information Law.
4. An appeal may be made within thirty (30) days of a denial. The appeal should be sent to the following address:

County Attorney
125 E. Court St. 3rd Floor
Ithaca, NY 14850
(607) 274-5546

5. An appeal to the denial of access to records shall be decided and communicated to the requestor in writing within ten (10) business days of the receipt of an appeal as set forth in the Regulations for Public Access to Records of Tompkins County New York (Section 7). The appeal decision shall state either the approval, granting records access or explaining the reason(s) for further denial.
6. Failure to respond to an appeal within the required period of time shall constitute a denial of an appeal.
7. The Appeals Officer shall deliver upon receipt, copies of all appeals to the Committee on Open Government.

Committee on Open Government
Department of State
One Commerce Plaza, 99 Washington Ave., Suite 650
Albany, NY 12231

F. Fees

1. There is no fee required to submit an initial FOIL request.
2. There is no fee for inspection of records or data.
3. Fees charged for the copying or reproduction of records may require payment in advance of the preparation.
4. A department providing photocopies of records to the general public or the news media may charge a fee for copies of records or data that shall not exceed twenty-five (25) cents per page for documents no larger than 9 x 14 inches. Fees for documents in excess of 9 x 14 inches shall not exceed the actual cost of reproducing the record in accordance with Section 8, paragraphs (c) through (f) of the Regulations for Public Access to Records of Tompkins County New York, except when a different fee is otherwise prescribed by statute.
5. Departments are authorized to provide photocopies at no charge or at a reduced charge, if requested by the person requesting access to the records.
6. If requested, departments are required to provide records and data electronically if the records and data are so stored.

G. Public Notice

A notice shall be maintained and posted as set forth in the Regulations for Public Access to Records of Tompkins County New York (Section 9) and on the County website. The notice must contain the following information:

- Name, title, address, and business phone number of the designated access officer
- Location of where records shall be made available for inspection and copying
- The right to appeal denied access to records and the name and address of whom an appeal should be directed

H. Severability

If any provision of the Regulations for Public Access to Records of New York Tompkins County or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of the regulations or the application thereof to other persons and circumstances.